(3)

IN THE HIGH COURT OF JUDICATURE AT BILASPUR (C.G.)

WRIT PETITION NO. 361 OF 2002

BETWEEN

1. Brishbh Bhoi aged about 60 years S/o Late Dhanurjay Bhoi, occupation cultivation.

2. Khageshwar Das aged about 68 years, S/o Late Shri Saro Das, occupation cultivation.

3. Tokhram Agrawal aged about 66 years S/o Late Banarasi Das Agrawal, occupation cultivation .

All the petitioners are resident of Village Barihapali, Tahsil Saraipali, District Mahasamund.

PETITIONERS

A N D

1. Pooran Singh aged about 55 years, S/o Late Shri Jogo Singh, occupation cultivation R/o Village Barihapali, Tahsil Sarabpali District Mahasamund.
2. State of Chhattisgarh, through the Secretary Department of Revenue, D.K.S.Building, Raipur.
3. Additional Commissioner, Raipur Division, Raipur.
4. Collector Mahasamund, District Mahasamund.

RESPONDENTS

WRIT PETITION UNDER ARTICLES 226/227 OF THE CONSTITUTION OF INDIA

(25)

XI-HC-22

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

आदेश पत्रक

मामला क्रमांक W.P.No. 361/2002 सन् 200

विरुद्ध

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश
	15/3/2002 Shri L.C. Das for the petitioners. Shri Sanjay K.Agrawal, Dy.A.G., & Shri Gautam Bhaduri, Govt.Advocate, for the respondents no.2 to 4. Heard. The petitioners have filed this petition against the order whereby the Collector, Mahasamund restored the application of the respondent no.1,who was Adivasi, which was dismissed in default, after considering the application and the affidavits filed and the Court has said that there is no reason to discard the affidavits. Against the said order, the petitioners preferred an appeal before the Commissioner,which has been heard by the Addl.Commissioner, Raipur Division, Raipur and the Addl.Commissioner has also noted that the question involved is regarding sale of land of Adivasi. In para 3 of his order, the Addl.Commissioner has noted that on 5/10/98 counsel for the respondent was present and he noted the next date as 7/12/1998 but he could not	

[पीछे देखिये

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उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

आदेश पत्रक

W.P. No. 361/2002

मामला क्रमांक ..... सन् 200

..... विरुद्ध .....

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित -2-	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

appear on that date and made an application for restoration on 29/9/2000. It is noted that the provisions are not penal and the matter may be heard on merits and the respondent shall have given an opportunity to address on merits.

In the aforesaid connection, Shri Agrawal also brought to the notice of this Court a judgment of Apex Court in the case of Ram Nath Sao and others vs. Gobardhan Sao and others , JT 2002 (2) SC 349.

The Apex Court in the aforesaid case has held as under :

> "The courts should not proceed with the tendency of finding fault with the cause shown and reject the petition in slipshod order. There is no straitjacket formula for accepting or rejecting explanation, furnished for the delay caused in taking steps. Sufficient cause should receive a liberal interpretation so as to advance substantial justice. Explanation offered should not be rejected, taking a hyper technical or pedantic view of the matter."

Having considered the facts and circumstances and material available on record and in view of the fact

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(27)

आदेश पत्रक

W.P. No. 361/2002

मामला क्रमांक ..... सन् 200

..... विरुद्ध .....

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित -3-	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

that both the courts below i.e. the Collector as well as the Commissioner found the restoration justified and further in view of the judgment of the Apex Court in the case of Ram Nath Sao (supra), in the opinion of this Court, no case for interference is made out in exercise of power under Article 226 of the Constitution of India.

The petition fails and is dismissed.

Sd/-
Fakhruddin
Judge